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Attorney Docket No. 1690.1009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Franz Josef SUMMERER

Application No.: 10/759,533

Group Art Unit: 1732

Confirmation No.: 7116

Filed: January 20, 2004

Examiner: Monica Anne HUSON

For: PROCESS AND DEVICE FOR PRODUCING MOULDED PARTS FROM PLASTIC

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed February 7, 2006, having a shortened period for response set to expire on March 7, 2006. Applicant provisionally elects, with traversal, claims directed to the invention of Group I, which includes claims 1-8, drawn to a "process for molding." Applicant reserves the right to further prosecute without prejudice the non-elected claims 9-15 and the related invention.

The restriction is traversed. The Examiner stated that the "process as claimed can be practiced by another materially different apparatus, such as one that does not require a first mold plated mounted rotatably about an axis of rotation, and a second mold plate, which are tilted relative to one another in an open state." However, Applicant submits that the process for moulding, as presented in claim 1, recites using "a device having a first and a second mould plate" and that "the first mold plate approaches the second mold plate through a tilting movement." See process claim 1, lines 2-3 and 7-8. Thus, as the first mold plate is defined to provide a tilting movement, it must be mounted rotatably about an axis of rotation. Further, as the first mold plate approaches the second mold plate through a tilting movement, it must be tilted relative to the second mold plate in an open state because, in a closed state, the first mold plate cannot approach the second mold plate. Therefore, reconsideration is requested for the examination of the related device for moulded parts of claims 9-15 as well.

Insofar as Group I and Group II are concerned, it is believed that claims 9-15 are so closely related to claims 1-8 that they should remain in the same application. There have been no references cited to show any necessity for requiring a restriction and, in fact, it is believed that the Examiner would find references containing both types of claims in the same field of technology, i.e., a process for moulding and a device for moulding. It is believed, moreover, that evaluation of both sets of claims, amounting to a total of 15 claims with only 2 independent claims, would not provide an undue burden upon the Examiner at this time, in comparison with the additional expense and delay to applicant in having to protect the additional subject matter recited by claims 9-15 by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if a restriction were not required.

Upon review of references involved in this field of technology, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

Should any questions remain unresolved, the Examiner is requested to telephone the applicant's attorney.

If there are any additional fees associated with this Response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: March 7, 2006

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